SUPREME COURT OF THE UNITED STATES.

No. 346.

ROBERT B. JONES, APPELLANT,

vs.

ADELAIDE, MARQUISE DE LA VALLETTE, AND HUSBAND.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

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1 *Petition.—Filed Jan'y 29, 1866.*

United States circuit court, sixth circuit and eastern district of Louisiana.

ADELAIDE, MARQUISE DE LA VALETTE, and HUSBAND,
vs.
ROBERT B. JONES and GEO. CONNELLY & Co. } No. 3,742.

To the honorable the circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana:

The petition of Adelaide de la Valette, wife of , Marquis de la Valette, and of the said Marquis de la Valette, her husband, herein authorizing and assisting his said wife, aliens, subjects of the empire of France, shows: That Robert B. Jones and the commercial
2 firm of Geo. Connelly & Co., doing business in New Orleans, composed of George Connelly, John Connelly, and G. H. Chaplain, citizens of the State of Louisiana, are indebted in solido unto your petitioner, Adelaide de la Valette, in the sum of six thousand three hundred and fifteen 72-100 dollars, with interest thereon at the rate of eight per cent. per annum from 24th May, 1862, for this, that the said defendants, being indebted to your said petitioner, the said Robert B. Jones, at New Orleans aforesaid, on the 21st February, 1862, made and subscribed his certain promissory note for the said sum of $6,315 72 to the order of the said Geo. Connelly & Co., and payable three months after date, at their office in New Orleans, with interest at the rate of eight per cent. per annum, after maturity, until paid, and which promissory note the said Geo. Connelly & Co. then and there indorsed, and the same was by the said defendants delivered to your petitioners.

3 That at maturity the said note was not paid, but that the said indorser waived demand, protest, and notice of protest, as the whole will more fully appear from said note and the indorsements thereupon hereunto annexed and filed with this petition.

That altho' amicably requested, the said defendants neglect to pay said note.

Wherefore your petitioner prays that said Robert B. Jones and said Geo. Connelly & Co., composed as aforesaid, may be cited to answer this petition, and, after all due proceedings, there be judgment in favor of your petitioner, Adelaide de la Valette, against said defendants, in solido, for said sum of six thousand three hundred and fifteen 72-100 dollars; with eight per cent. per annum interest, from 2d May, 1862, until paid, and costs of suit, and for all general relief.

(Signed) BUCHANAN & GILMORE,
Attorneys for Pl'ffs.

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4 *Note filed with petition, June 29, 1866.*

$6,315 72. NEW ORLEANS, *Feb. 21st*, 1862.

Three months after date I promise to pay to the order of Geo. Connelly & Co., at their office in New Orleans, six thousand three hundred and fifteen 72-100 dollars, for value received, with interest at the rate of eight per cent. per annum, from maturity until paid.

(Signed) ROB'T B. JONES.

No. . Due 21-24 May, 1862.

Indorsed: George Connelly & Co.

NEW ORLEANS, *May 24th*, 1862.

Demand, protest, and notice of protest waived.

(Signed) GEO. CONNELLY & Co.

5 *Citation to Robert B. Jones.—Issued 29th January*, 1866.

The President of the United States of America to the marshal of the eastern district of Louisiana, greeting:

ADELAIDE, MARQUISE DE LA VALETTE, and HUSBAND, *vs.* ROBERT B. JONES and GEO. CONNELLY & Co. } No. 3,742.

You are hereby commanded to summon Robert C. Jones, a citizen of the State of Louisiana, to comply with the demand of Adelaide de la Valette, wife of Marquis de la Valette, and her husband, aliens and subjects of the empire of France, contained in the petition of which a copy accompanies this citation, or to deliver his answer to the same, in the office of the clerk of the circuit court of the United States, sixth judicial circuit and eastern district of Louisiana, in the city of New Orleans, in ten days after the service hereof, or judgment will be rendered against him by default; which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held. And that you make due return hereof on the first Monday of March, 1866.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States of America, at the city of New Orleans, this 29th day of January, A. D. one thousand eight hundred and sixty-six, and of the independence of the United States of America the ninetieth year.

(Signed) CHS. CLAIBORNE, *Clerk.* [SEAL.]

By F. B. VINOT, *D'y Clerk.*

6 *Marshal's return.*

Received January 29, 1866, and on the 31st day of the same month and year served a copy of the within citation, and plaintiff's petition accompanying the same, on Robert B. Jones, the defendant named herein, personally, at his office, No. 51 Carondelet street, in this city.

New Orlaens, January 31, 1866.

(Signed) M. EGAN, *D'y U. S. Marshal.*

7 *Citation on Geo. Connelly & Co.—Issued January 29th, 1866.*

The President of the United States of America to the marshal of the eastern district of Louisiana, greeting:

ADELAIDE, MARQUISE DE LA VALETTE, and HUSBAND,
vs.
ROBT. B. JONES and GEO. CONNELLY & CO. } No. 3,742.

You are hereby commanded to summon the commercial firm of Geo. Connelly & Co., composed of Geo. Connelly, John Connelly, and G. H. Chaplain, all citizens of the State of Louisiana, to comply with the demand of Adelaide de la Valette, wife of Marquis de la Valette, and her husband, aliens and subjects of the empire of France, contained in the petition of which a copy accompanies this citation, or to deliver their answer to the same in the office of the clerk of the circuit court of the United States, sixth judicial circuit, and eastern district of Louisiana, in the city of New Orleans, in ten days after the service hereof, or judgment will be rendered against them by default, which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held; and that you make due return hereof on the first Monday of March, 1866.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States of America, at the city of New Orleans, this 29th day of January, A. D. one thousand eight hundred and sixty-six, and of the independence of the United States of America the ninetieth year.

(Signed) CHS. CLAIBORNE, *Clerk.* [SEAL.]
By F. B. VINOT, *D'y Clerk.*

8 *Marshal's return.*

Received January 29th, 1866; and on the 31st day of same month and year served a copy of the within citation, and plaintiff's petition accompanying the same, on Geo. Connelly & Co., the defendants named herein, by leaving it in the hands of Geo. Connelly, personally, he being one of said firm of Geo. Connelly & Co., at the office of Duff Green & Co., No. 62 Carondelet street, in this city.

New Orleans, January 31st, 1866.

(Signed) M. EGAN, *D'y U. S. Marshal.*

9 *Default.—From the minutes of Febr'y* 16, 1866.

ADELAIDE, MARQUISE DE LA VALETTE, and HUSBAND,
vs.
ROBERT B. JONES and GEO. CONNELLY & CO. } No. 3,742.

On motion of Buchanan and Gilmore, attorneys for plaintiffs, and on showing to the court that the defendants herein have failed to answer, although duly cited, ordered that judgment by default be entered against them.

Order to set aside default.—From the minutes of Febr'y 19, 1866.

ADELAIDE, MARQUISE DE LA VALETTE, and HUSBAND,
vs.
ROBERT B. JONES and GEO. CONNELLY & Co. } No. 3,742.

On motion of John Henderson, jr., esq., att'y for the defendants, ordered that the default herein entered on the 16th instant be set aside, and that defendants be allowed to file their answer.

10

Answer.—Filed February 19th, 1866.

United States district court for the eastern district of Louisiana.

ADELAIDE, MARQUISE DE LA VALETTE, and HUSBAND,
vs.
ROBERT B. JONES and GEO. CONNELLY & Co. } No. 3,742.

And now into court, by his counsel, comes the defendant, Robert B. Jones & Geo. Connelly & Co., and for answer to plaintiff's petition denies each and every allegation therein contained, and prays that the same be dismissed, with costs.

(Signed) JOHN HENDERSON, JR.,
Attorney for Defendants.

11

Amended answer.—Filed February 28, 1866.

ADELAIDE, MARQUISE DE LA VALETTE, and HUSBAND,
vs.
ROBERT B. JONES *et al.*

Now come the defendants, Robert B. Jones & George Connelly & Co., by their attorney, John Henderson, jr., and, by leave of court, file this, their amended and supplemental answer in the above case, and for further answer say that, on the face of the petition and the note annexed thereto, this court has not jurisdiction of the parties as plaintiffs and defendants under the Constitution of the United States and the act of Congress in such case made and provided, for said petition, and the note annexed thereto as part thereof, show that the note sued upon was executed by Robert B. Jones, a citizen of the State of Louisiana, in favor of George Connelly & Co., a firm domiciliated in the State of Louisiana, and composed of citizens of the State of Louisiana, and by said George Connelly & Co. indorsed in blank. Upon the face of plaintiff's petition the payees could not sue the maker, both being citizens of the State of Louisiana; and defendants aver that a holder of such note cannot sue said Jones or George Connelly & Co. as such holder, to wit. the plaintiff's claim both to said note under, by, and through said payees, George Connelly & Co.

12

Defendants, upon the facts set forth in this amended answer, prays this defence to the jurisdiction of this court be sustained, and the suit dismissed, with costs.

(Signed) JOHN HENDERSON, JR., *of Counsel.*

Order.

Let this amended answer be filed.
February 28th, 1866.
(Signed) E. H. DURELL, *Judge.*

Judgment.—From the minutes of April 2, '66.

13 Circuit court of the United States, sixth circuit and eastern district of Louisiana.—November term, 1865.

ADELAIDE, MARQUISE DE LA VALETTE, and HUSBAND,
vs.
ROBERT B. JONES & GEO. CONNELLY & Co. } No. 3,742.

NEW ORLEANS, *Monday, April 2d*, 1866.

Court met pursuant to adjournment. Present: Hon. E. H. Durell, district judge.

ADELAIDE, MARQUISE DE LA VALETTE, and husband,
vs.
ROBERT B. JONES and GEO. CONNELLY & Co. } No. 3,742.

This cause came up for trial. Buchanan and Gillmore for plaintiff; John Henderson, jr., for defendants.

When after hearing the pleadings, evidence and counsel, the court considering the plea—it is ordered, adjudged, and decreed that the defendants' plea to the jurisdiction of the court be overruled, and that there be judgment in favor of the plaintiff, Adelaide, Marquise de la Valette, and her husband, and against the defendants, Robert B. Jones and the commercial firm of Geo. Connelly & Co., composed of Geo. Connelly, John Connelly, and G. H. Chaplain, mem-
14 bers thereof, in solido, for the sum of six thousand three hundred and fifteen dollars and seventy-two cents, with eight per cent. per annum interest from the 24th May, 1862, till paid, and cost of suit.

Rule for a new trial.—From minutes of April 4, 1866.

ADELAIDE, MARQUISE DE LA VALETTE, and her husband,
vs.
ROBERT B. JONES and GEO. CONNELLY & Co. } No. 3,742.

On motion of John Henderson, jr., of counsel for defendants, ordered that the plaintiffs show cause, on Saturday, 7th instant, at 11 a. m., why a new trial herein should not be granted on the grounds now filed.

Grounds.—Filed April 3, 1866.

1. The court erred in overruling the plea to the jurisdic-
15 tion of this court set up in the answers founded on the allegations of plaintiff's petition.

2. The judgment is an absolute nullity for want of jurisdiction of parties and subject-matter.

Marshal's return.

Received April 4th, 1866, and same day, month, and year served a copy of the within rule and grounds on Buchanan and Gillmore, esqrs., attorneys for defendants in this suit, in the hands of T. A. Gillmore, esqr., one of said firm, at their office, No. 127 Gravier street, in this city.

New Orleans, April 5th, 1866.

(Signed) M. EAGAN, *D'y U. S. Marshal.*

Order refusing new trial.—From the minutes April 7th, 1866.

ADELAIDE, MARQUISE DE LA VALETTE, and her husband, *vs.* ROBERT B. JONES and GEO. CONNELLY & Co. } No. 3,742.

The rule herein taken on the 3d instant for a new trial
16 came up.

John Henderson, jr., esqr., for plaintiffs in rule; Buchanan & Gilmore, for defendants in rule. And after hearing counsel, ordered that the new trial be refused with costs.

Final judgment.—From the judgment docket, page 405.

Circuit court of the United States, sixth circuit and eastern district of Louisiana.—November term, 1866.

NEW ORLEANS, *Monday, April 2d,* 1866.

Court met pursuant to adjournment. Present: Hon. E. H. Durell, district judge.

ADELAIDE, MARQUISE DE LA VALETTE, and husband, *vs.* ROBERT B. JONES and GEO. CONNELLY & Co. } No. 3,742.

This cause came up for trial Buchanan & Gillmore for
17 plaintiffs; Jno. Henderson, jr., for defendants. When, after hearing the pleadings, evidence, and counsel, the court considering the plea, it is ordered, adjudged, and decreed that the defendants' plea to the jurisdiction of the court be overruled, and that there be judgment in favor of the plaintiffs, Adelaide, Marquise de la Vallette, and her husband, and against the defendants, Robert B. Jones and the commercial firm of Geo. Connelly & Co., composed of George Connelly, John Connelly, and G. H. Chaplain, members thereof, in solido, for the sum of six thousand three hundred and fifteen dollars and seventy-two cents, with eight per cent. per annum interest from 24th May, 1862, till paid, and costs of suit.

Judgment rendered April 2d, 1866.

Judgment signed April 9th, 1866.

(Signed) E. H. DURELL, *Judge.*

Petition of Robert B. Jones for suspensive appeal.—Filed April 18th, 1866.

In the circuit court of the United States for the eastern dis-
18 trict of the State of Louisiana.

ADELAIDE, MARQUISE DE LA VALETTE, and her husband,
vs.
ROBERT B. JONES and GEORGE CONNELLY & Co. } No. 3,742.

To the honorable the judges of the circuit court of the United States for the eastern district of the State of Louisiana:

The petition of Robert B. Jones shows that this honorable court rendered a final judgment in the above-entitled cause, on the 9th April, A. D. 1866, against him and Messrs. Geo. Connelly & Co., in solido, in favor of Adelaide, Marquise de la Valette, and her husband, for the sum of six thousand three hundred and fifteen 72-100 dollars, with eight per cent. interest per annum thereon, from the 24th day of May, A. D. 1862, till paid, and costs of suit. That there is a
19 manifest error therein to the great prejudice of petitioner, and feeling aggrieved thereby the said petitioner, Robert B. Jones, for himself alone, prays a suspensive appeal from said judgment to the Supreme Court of the United States, and in order that said appeal may operate as a supersedeas on the execution of said judgment, he prays this court to accept his annexed bond in the penal sum of ten thousand dollars, ($10,000,) with good and solvent security, in favor of said Adelaide, Marquise de la Valette, and her husband, conditioned as the law directs; said appeal to be made returnable to the Supreme Court of the United States in the time and manner as the law prescribes. That said Adelaide, Marquise de la Valette, and her husband, and said Geo. Connelly & Co. be cited to answer said appeal on the return day thereof. Prays general relief in the premises.

(Signed) JOHN HENDERSON, Jr.,
Of counsel for Robert B. Jones, alone affidavit.

Order.

20 A suspensive appeal to operate as a supersedeas is allowed in this case as prayed for, and according to law returnable in the Supreme Court of the United States the first Monday of December, 1866, the appellant giving bond in the sum of ten thousand dollars, with good and solvent security, conditioned as the law directs.

April 18th, 1866.

(Signed) E. H. DURELL, *Judge.*

Appeal bond.—Filed April 18th, 1866.

Know all men by these presents that we, Robert B. Jones, as principal, and J. Madison Wells and Simon Witkowski, as sureties, are held and firmly bound, jointly and severally, unto Adelaide, Mar-

quise de la Valette, and her husband, in the sum of ten thousand dollars, lawful money of the United States of America, to be paid to the said Adelaide, Marquise de la Valette, and her husband, their
21 heirs, executors, administrators, and assigns, for which payment, well and truly to be made, we bind ourselves and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated the eighteenth day of April, eighteen hundred and sixty-six.

Whereas the said Robert B. Jones has this day presented a petition to the honorable the circuit court of the United States for the sixth circuit, holding sessions in and for the eastern district of Louisiana, praying for a suspensive appeal to stay execution in the case of Adelaide, Marquise de la Valette, and husband, *versus* Robert B. Jones and George Connelly & Co., No. 3,748 of the docket of said court, from the judgment rendered against the said Robert B. Jones on the 9th April, 1866.

Now, the condition of the above obligation is, that we, the above bounden, Robert B. Jones and J. Madison Wells and Simon Witkowski, will well and truly pay to the said Adelaide, Marquise de la Valette, and husband, the appellees in said cause, all such
22 damages as they may recover against us in case it should be decided that said appeal was wrongfully obtained.

(Signed) ROB'T. B. JONES. [SEAL.]
(Signed) J. MADISON WELLS. [SEAL.]
(Signed) SIMON WITKOWSKI. [SEAL.]

Signed, sealed, and delivered in the presence of—
(Signed) F. B. VINOT.

Approved.
(Signed) E. H. DURELL, *Judge*.

Statement of facts.—Filed June 22, 1866.

ADELAIDE, MARQUISE DE LA VALETTE, and husband, *vs.* ROBERT B. JONES and GEO. CONNELLY & Co. } No. 3,742.

Statement of facts in the above-entitled suit:

The plaintiff gave in evidence on the trial of this case a note with indorsements in words and figures following:

$6,315 72-100. NEW ORLEANS, *Febr'y 21st*, 1862.

23 Nine months after date I promise to pay to the order of Geo. Connelly & Co., at their office in New Orleans, six thousand and three hundred and fifteen 72-100 dollars, for value received, with interest at the rate of eight per cent. per annum, after maturity until paid.

(Signed) ROBT. B. JONES.

No. —. Due 21-24 May, 1862.

Indorsed:

GEO. CONNELLY & CO.

New Orleans, May 24, 1862. Demand, protest, and notice of protest waived.

(Signed) GEO. CONNELLY & CO.

Plaintiffs presented no other proof. The defendants offered no evidence. The above is a full statement of the facts as presented in the above suit.

(Signed) JOHN HENDERSON, JR.,
Att'y of Robert B. Jones.

(Signed) BUCHANAN & GILLMORE,
For Plaintiffs.

(Signed) E. H. DURELL, *Judge.*

24 United States of America, circuit court of the United States, sixth circuit and eastern district of Louisiana.

CLERK'S OFFICE.

I, Charles Claiborne, clerk of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, do hereby certify that the foregoing 23 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of Adelaide, Marquise de la Valette, and husband, *vs.* Robert B. Jones and Geo. Connelly & Co., No. 3,742 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 6th day of July, A. D. 1866.

[L. S.] CHS. CLAIBORNE, *Clerk.*

[5-cent stamp, cancelled.]

I, E. H. Durell, United States judge for the eastern district of Louisiana, do hereby certify that Charles Claiborne, whose name is signed to the above certificate as clerk of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand and seal, at the city of New Orleans, in said district, this 6th day of July, A. D. 1866.

E. H. DURELL, *Judge.*

[5-cent stamp, cancelled.]

25 THE UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

The President of the United States to Adelaide de la Valette, wife of Marquis de la Valette, and the said Marquis de la Valette, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to a petition for appeal and order granting the same, filed in the clerk's office of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, wherein Robert B. Jones is plaintiff and appellant and you are defendants, to show cause, if any there be, why the judgment rendered against the said Robert B. Jones, as in said petition mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this second day of May, in the year of our Lord one thousand eight hundred and sixty-six.

E. H. DURELL, *Judge.*

Marshal's return.

Received May 3d, 1866, and same day, month, and year served a copy of the within citation of appeal on the plaintiffs named in the above-entitled suit, by leaving said document in the hands of A. M. Buchanan, esq., one of the firm of Buchanan & Gillmore, esq'rs, who are attorneys of said plaintiffs. Service made in the custom-house building in this city.

New Orleans, May 4th, 1866.

M. EGAN, *D'y U. S. Marshal.*